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JUDGE LEISURE

08 CV 6543

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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INDEMNITY INSURANCE COMPANY OF
NORTH AMERICA a/s/o ATALANTA
CORPORATION,

2008 Civ.

Plaintiff,

COMPLAINT

- against -

M/V SL INTEGRITY, her engines, boilers, tackle,
furniture, apparel, etc., *in rem*; A.P. MOLLER-
MAERSK A/S d/b/a MAERSK LINE, *in personam*,

Defendants.

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Plaintiff, INDEMNITY INSURANCE COMPANY OF NORTH AMERICA, (hereinafter
“INA” or “Plaintiff”), by and through its attorneys, Casey & Barnett, LLC, as and for its
Complaint, alleges upon information and belief as follows:

1. This is an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure. Jurisdiction is predicated upon 28 U.S.C. §1333 and the General Maritime Law of the United States.
2. At all material times, Indemnity Insurance Company of North America was and is a corporation organized and existing by virtue of the laws of a foreign state with an office and place of business located at 140 Broadway, 40th Floor, New York, New York 10005 and is the

subrogated underwriter of a consignment of 3,096 cartons of cheese laden aboard M/V SL INTEGRITY, as more fully described below.

3. Upon information and belief, at all times hereinafter mentioned, M/V SL INTEGRITY (hereinafter "vessel"), was and still is a vessel operated engaged in the common carriage of goods for hire and is now, or will be during the pendency of this action, within this District and subject to the jurisdiction of this Honorable Court.

4. Upon information and belief, at all times hereinafter mentioned, Defendant, A.P. MOLLER-MAERSK A/S d/b/a MAERSK LINE (hereinafter "MAERSK" or "defendant"), was and still is a business entity duly organized and existing under the law of a foreign country, with an office and place of business at 2 Giralda Farms, Madison Avenue, P.O. Box 880, Madison New Jersey 07940, and who was and is now engaged in the business of common and/or private carriage of merchandise by water for hire and was the owner and/or disponent owner and/or charterer and/or manager and/or operator of the vessel.

5. Plaintiff brings this action on its own behalf and as agent and/or trustee on behalf of and for the interest of all parties who may be or become interested in the said consignment, as their respective interests may ultimately appear, and plaintiff is entitled to maintain this action.

RELEVANT FACTS

6. On or about November 19, 2007 a consignment of 3,096 cartons of cheese, laden in container No. MWCU6199180, was delivered to MAERSK and the M/V SL INTEGRITY in good order and condition, for shipment from Genoa, Italy to Newark, New Jersey, U.S.A., pursuant to Maersk Line bill of lading number 855516154 dated November 20, 2007.

7. Thereafter, the aforementioned consignment was loaded aboard the M/V SL INTEGRITY, and the vessel sailed for the intended port of destination.

8. On or about December 21, 2007, the consignment arrived in Newark, New Jersey, U.S.A., whereupon, it was discovered that the cheese was not in the same good order and condition as when received by the defendants, but instead had suffered damages during transit resulting from temperature abuse.

9. The damage to the cargo was not the result of any act or omission of plaintiff, but, on the contrary, was due solely as the result of the negligence, fault, neglect, breach of contract of carriage, unseaworthiness and bailment on the part of defendants.

10. At all times relevant hereto, a contract of insurance for property damage was in effect between Atalanta Corporation and INA, which provided coverage for, among other things, loss or damage to the consignment.

11. Pursuant to the aforementioned contract of insurance between Atalanta Corporation and INA, monies have been and will be expended on behalf of Atalanta Corporation to the detriment of INA due to the damages sustained during transit.

12. As INA has sustained damages as a result of said expenditures, expenditures rightly the responsibility of the defendants, INA has an equitable right of subrogation and is subrogated, to the extent of its expenditures, to the rights of its insured with respect to any and all claims for damages of against the defendant.

13. Plaintiff and its predecessors in title have performed all of the conditions precedent on their part to be performed under the terms of the said contract.

14. By reason of the foregoing, plaintiff has been sustained losses which will be shown with specificity at trial, no part of which has been paid, although duly demanded, which are presently estimated to be no less than \$43,000.00

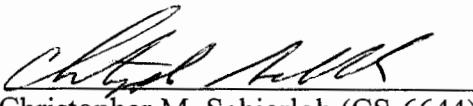
WHEREFORE, plaintiff prays that:

1. *In rem* service of process be issued against the M/V SL INTEGRITY, her engines, boilers, tackle, furniture, apparel, etc.; that the vessel be seized and that all those claiming an interest in her be cited to appear and answer under oath both all and singular the matters aforesaid;
2. The M/V SL INTEGRITY, her engines, boilers, tackle, furniture, apparel, etc., be condemned and sold to satisfy the judgments herein in favor of plaintiff;
3. The Court order, adjudge and decree that defendants, M/V SL INTEGRITY and A.P. MOLLER-MAERSK A/S d/b/a MAERSK LINE, pay to plaintiff the losses sustained herein, together with pre-judgment and post judgment interest thereon and their costs; and,
4. That this Court grant to plaintiff such other and further relief as may be just and proper.

Dated: New York, New York
July 23, 2008
115-924

CASEY & BARNETT, LLC
Attorneys for Plaintiff

By:


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